HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO.516 OF 2004

Shri Raul Prazeres
Age 42, married, occupation business
Resident of C-1 lar Asiena
Caranzalem, Ilhas Goa. ... Petitioner.

V/s

1. State of Goa
through the Chief Secretary
with office at Vidhansabha Complex
Porvorim, Goa.

2. Goa Coastal Zone
Management Authority
Department of Science, Technology
And Environment through its Director
with its office at opposite Saligao
Seminary, P.O. Saligao
Bardez, Goa.

3. Village Panchayat at Mandrem
Taluka Pernem,
Through its Sarpanch
With office at Panchayat Bldg.,
Mandrem, Goa. ... Respondents.

Mr. V. Tulzapurkar, with Mr. S. Usgaonkar, Advocates for the Petitioner

Mr. M.B. Da Costa, Advocate General with Mr. J.A. Lobo, Additional Government Advocate for the respondents no.1 and 2.

CORAM: A.P. LAVANDE, J.

DATE: 1ST APRIL, 2005.

ORAL JUDGMENT.

Mr. Lobo, learned Additional Government Advocate waives notice on behalf of respondents no.1 and 2. Respondent no.3 has chosen not to appear inspite of service.

Rule. By consent of learned Counsel appearing for the parties rule is made returnable forthwith.

2. Heard Mr. V. Tulzapurkar, learned counsel for the Petitioner and Mr. M. D'Costa, learned Advocate General for the Respondent no.1 and 2.

By this petition, the petitioner challenges order dated 26.10.2004 passed by the respondent no.2 directing the petitioner to demolish all the structures in survey no.226/2 of Mandrem Village within one month from the date of issue of order.

3. According to Mr. Tulzapurkar, learned Counsel appearing for the petitioner, respondent no.2 has relied upon the material which was not put to the petitioner and without bringing the material to the notice of the petitioner, respondent no.2 has chosen to rely upon the said material and passed the impugned order. According to the learned Counsel, the respondent no.2 has relyd upon statement made by Secretary of Village Panchayat, Mandrem which was recorded in the absence of the

petitioner. According to the learned Counsel this is a fit case in which the impugned order deserves to be quashed and the matter remanded to respondent no.2 to decide the matter afresh after giving opportunity to the petitioner to deal with the statement of the Secretary of Village Panchayat of Mandrem. Learned Advocate General has no objection if this course is adopted. I am also of the view that the impugned order ought not to have been passed without affording an opportunity to the petitioner to deal with the statement upon by the Secretary of Village Panchayat of Mandrem which was adverse to the petitioner.

4. In view of the above, the impugned order dated 26.10.2004 is quashed and set aside and the matter is remanded back to the respondent no.2. The respondent no.2 to record the statement of the Secretary of Village Panchayat of Mandrem in the presence of the petitioner or his Counsel and permit the petitioner to deal with the same. The petitioner either personally or through his Counsel to appear before the respondent no.2 on 20.4.2005 at 11.00 a.m. for further directions from the respondent no.2. Needless to mention that all the contentions raised by the petitioner are kept open.

5. The respondent no.2 shall pass appropriate order before 31.5.2005 after hearing the petitioner.

6. In the result therefore, the petition is partly allowed. Rule is made absolute in aforesaid terms with no orders as to costs.

A.P. LAVANDE, J.

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